

KPDES



**KENTUCKY POLLUTANT
DISCHARGE ELIMINATION
SYSTEM**

PERMIT

**AUTHORIZATION TO DISCHARGE UNDER THE
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM**

PERMIT NO.: KYR100000

AGENCY INTEREST NO.: 35050

Pursuant to Authority in KRS 224,

Stormwater Discharges Associated with Construction Activities

are authorized to discharge from a facility located

Within any of the 120 counties of the Commonwealth of Kentucky

to receiving waters named

Those water bodies of the Commonwealth that comprise the Mississippi and Ohio River basins and sub-basins within the political and geographic boundaries of Kentucky

in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.

This permit shall become effective on December 1, 2019.

This permit and the authorization to discharge shall expire at midnight, November 30, 2024.

November 30, 2019

Date Signed

A handwritten signature in black ink, appearing to read "Peter T. Goodmann". The signature is enclosed in a rectangular box with a thin border. Above the signature, there is small text that reads "E-Signed by Jason Hart" and "VERIFY authenticity with eSign Desktop".

**Peter T. Goodmann, Director
Division of Water**

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SECTION 1

COVERAGE

1. COVERAGE

This permit may cover both large and small sites with stormwater discharges associated with construction activities that meet the eligibility requirements of this permit. Construction and construction-related activities refer to the actual earth disturbing construction activities and those activities supporting the construction project such as construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), measures used to control the quality for stormwater associated with construction activity, or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants).

1.1. Eligibility

This permit applies to stormwater discharges associated with construction activities disturbing individually one (1) acre or more, including, in the case of a common plan of development, contiguous construction activities that cumulatively equal one (1) acre or more of disturbance. Non-contiguous construction activities (i.e. activities separate by at least 0.25 miles) that disturb more than one (1) acre or more shall be considered independent activities. The Kentucky Division of Water (DOW) is also making this permit available for stormwater discharges from any other construction activity, including those disturbing less than one acre, designated by DOW based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the Commonwealth.

1.2. Exclusions

The following are excluded from coverage under this general permit:

- 1) Any construction activity conducted at or on properties that have obtained an individual or general KPDES permit for the discharge of other wastewaters which requires the development and implementation of a Best Management Practices (BMP) plan;
- 2) Any operation that the DOW determines an individual permit would better address the discharges from that operation;
- 3) Any construction activity where external building washdown waters containing hazardous substances, such as paint or caulk containing polychlorinated biphenyls (PCBs) are discharged;
- 4) Any construction project that plans to use any treatment chemicals (polymers, flocculants, coagulants); and
- 5) Any project that discharges to an Impaired Water listed in the most recent Integrated Report, §305(b) as impaired for sediment and for which an approved sediment TMDL has been developed.

1.3. Permitting Action

This is a reissuance of a general KPDES permit to address stormwater runoff associated with construction activities conducted in the Commonwealth of Kentucky.

This KYR10 will replace all previous versions of KYR10 issued by DOW. The conditions and requirements contained herein shall supersede the conditions and requirements of all previous versions except as delineated within the permit.

Existing coverages are extended and remain in effect until one (1) year after the effective date of this permit. A new NOI-SWCA application requesting coverage under this renewal of the general permit will be required for projects requiring coverage beyond the one (1) year extension outlined here. See Section 4.2 of this Permit and Section 5.5 of the Fact Sheet for additional information.

SECTION 2

PERMIT REQUIREMENTS

2. PERMIT REQUIREMENTS

This section of the permit establishes the non-numeric requirements that are applicable to exposed areas associated with construction activity for all facilities authorized to discharge by this permit. The non-numeric requirements should minimize the discharge of pollutants resulting from precipitation events.

2.1. Notice of Permit Coverage

The permittee shall post signage or other notice of permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest the construction site. If the construction site is not visible from a public road, then the notice of permit coverage may be placed in a safe, publicly accessible location that is visible from the nearest public road and as close as possible to the construction site. This notice (signage) must include the KPDES Permit Number, contact name and phone number for obtaining additional construction site information such as a copy of the SWPPP. The signage must include information apprising the public on how to contact the state if stormwater pollution is observed in the discharge.

2.2. Stormwater Pollution Prevention Plan (SWPPP)

The permittee shall develop a Stormwater Pollution Prevention Plan (SWPPP) and implement the SWPPP at the commencement of construction disturbance. All operators working on this project are required to comply with the SWPPP or obtain separate coverage under this permit. For KYTC projects, the Best Management Practices Plan shall serve as the SWPPP.

The SWPPP shall include erosion prevention measures, sediment controls measures, and other site management practices necessary to prevent the discharge of sediment and other pollutants that would result in the degradation to waters of the Commonwealth. These erosion prevention and sediment control measures and other site management practices are required to be properly designed and selected based on site-specific conditions, and installed and maintained to effectively minimize such discharges for storm events up to and including a 2-year, 24-hour event.

Permittees are encouraged to design the site, the erosion prevention measures, sediment controls measures, and other site management practices that minimize post-construction stormwater runoff, including facilitating the use of low-impact technologies. Permittees shall minimize soil compaction and, unless infeasible, preserve topsoil except in specific site areas where the intended function dictates compaction or removal/disturbance of topsoil.

KYTC projects shall, at a minimum, utilize the most recent Kentucky Standards Specifications for Road and Bridge Construction published by the Transportation Cabinet, Department of Highways, as a means of establishing sediment controls measures, erosion control measures, and other site management practices for this permit coverage.

The Stormwater Pollution Prevention Plan (SWPPP) shall contain the following:

1. A site description that identifies sources of pollution to stormwater discharges associated with construction activity on site; and
2. A description of the erosion prevention measures, sediment controls measures, and other site management practices used at the site to prevent or reduce pollutants in stormwater discharges to ensure compliance with the terms and conditions of this permit. All stormwater controls shall be developed and implemented in accordance with sound practices and shall be developed specific to the site. The goal of these devices is 80% removal of Total Suspended Solids that exceed predevelopment levels. (For purposes of guidance/technical assistance, the reader is referred to the Kentucky Erosion Prevention and Sediment Control Field Guide and the Kentucky Best Management Practices Technical Manual located on DOW's Stormwater Webpage at:

<https://eec.ky.gov/Environmental-Protection/Water/PermitCert/KPDES/Documents/SWPPPPermitPage.pdf>.

3. For a common plan of development a comprehensive SWPPP shall be prepared that addresses all construction activities within the common plan of development. Each individual site operator shall be a signatory of the SWPPP and shall not conduct activities that are not consistent with the SWPPP or result in the failure or ineffectiveness of the sediment controls measures, erosion control measures, and other site management practices implemented. Otherwise, an operator not utilizing the SWPPP for the common plan of development shall seek coverage under this permit or an individual permit and develop a SWPPP for those separate activities.
4. The signature of the construction site operator or authorized representative who signed the Notice of Intent. This insures that the SWPPP was developed and/or reviewed by a responsible party with the ability to implement the BMPs and other commitments described in the SWPPP.

2.2.1. Site Description

The SWPPP shall be based on an accurate assessment of the potential for generating and discharging pollutants from the site. Hence, this permit requires a description of the site and intended construction activities in the SWPPP in order to provide a better understanding of the characteristics of the site runoff. At a minimum, the SWPPP shall describe the nature of the construction activity, including:

1. the function of the project (e.g., box store, strip mall, shopping mall, school, electrical transmission line, oil or natural gas pipeline, factory, industrial park, residential development, transportation construction, etc.);
2. the intended significant activities, presented sequentially, that will disturb soil over major portions of the site (e.g., grubbing, excavation, grading);
3. estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading or other activities, including off-site borrow/fill areas; and
4. identify the receiving water(s) and describe the water quality classification of the receiving water(s).

2.2.2. Site Map

The SWPPP shall contain a legible site map of sufficient scale to depict the following:

1. Property boundary of the project. If subdivided, show all lots and indicate on which lots construction activities will occur;
2. Anticipated drainage patterns and slopes after major grading activities including impervious structures;
3. Areas of soil disturbance and areas that will not be disturbed including fill and borrow areas;
4. Locations and types of sediment control measures, erosion control measures, planned stabilization measures, and other site management practices;
5. Locations of surface waters, including wetlands, and riparian zones;
6. Locations of karst features such as sinkholes, springs, etc.;
7. Locations of discharge points;
8. Locations of equipment storage areas, materials storage areas including but not limited to top soil; storage, fuels, fertilizers, herbicides, etc.;
9. Location of concrete wash out areas, waste management areas, area of site egress;
10. If applicable, locations where final stabilization has been accomplished and no further construction-phase permit requirements apply; and

11. Other major features and potential pollutant sources.

For KYTC projects which have Roadway Plans, locations of BMPs may be recorded and off-set as the BMPs are installed.

2.2.3. Other Industrial Activities

The SWPPP shall provide a description of any discharge associated with industrial activity other than construction (including stormwater discharges from dedicated asphalt plants, concrete plants, etc.) and the location of that activity on the construction site.

2.2.4. Documentation of Stormwater Controls to Reduce Pollutants

The SWPPP shall include:

1. Documentation of the erosion prevention measures, sediment controls measures, and other site management practices designed to site-specific conditions that will be implemented to reduce the pollutants in stormwater discharges from the site and assure compliance with the conditions of the permit. The design installation, and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on site.
2. It is imperative that stabilization be employed as soon as practicable, but not longer than allowed in Section 2.4 of this permit, in critical areas. Erosion prevention measures, sediment controls measures, and other site management practices shall be properly selected based on site-specific conditions, and installed and maintained in accordance with sound sediment controls, erosion prevention, or other site management practices and relevant manufacturers' specifications.
3. The use of erosion control measures is widely recognized as minimizing the time that bare soil is exposed, preventing the detachment of soil, and reducing the mobilization and transportation of soil particles off site. Selection of erosion control measures will depend on site-specific conditions (e.g. topography, soil types). The SWPPP shall include a description of the general location of, and how and where the following erosion controls measures will be implemented:
 - a. The plan to minimize disturbance and the period of time the disturbed area is exposed without stabilization practices, including:
 - i. Minimizing the overall area of disturbed acreage;
 - ii. Phasing construction so that only a portion of the site is disturbed at any one time; or
 - iii. Scheduling clearing and grading events to reduce the probability that bare soils will be exposed to rainfall.
 - b. Managing stormwater flows on the site to avoid stormwater contact with disturbed areas through use of:
 - i. Diversion berms;
 - ii. Conveyance channels;
 - iii. Vegetated buffers;
 - iv. Slope drains; or
 - v. Other adequately protective alternate practices.
 - c. Using energy dissipation approaches to prevent high velocity runoff and concentrated flows that are erosive, by:
 - i. Use of vegetated filter strips; or
 - ii. Other adequately protective alternate practices.

- d. The practices to be used to minimize exposure of bare soils by covering and stabilization, including:
 - i. Vegetative stabilization with annual grasses or other plants;
 - ii. Geotextiles;
 - iii. Straw;
 - iv. Rolled erosion control mats or other products;
 - v. Mulch; or
 - vi. Other adequately protective alternate practices.
4. Sediment control measures are used to control and trap sediment that is entrained in stormwater runoff. The SWPPP shall include a description of how and where the following sediment controls measures will be implemented:
 - a. Sediment Barriers
 - i. Silt fences constructed with filter fabric;
 - ii. Fiber rolls; or
 - iii. Other adequately protective alternate practices
 - b. Slope Protection
 - i. Tread tracking;
 - ii. Erosion blankets;
 - iii. Mulching; or
 - iv. Other adequately protective alternate practices
 - c. Conduit/Ditch Protection
 - i. Inlet protection;
 - ii. Outlet protection;
 - iii. Other adequately protective alternate practices
 - d. Stabilizing Drainage Ditches
 - i. Check dams;
 - ii. Lining deep ditches; or
 - iii. Other protective equivalent practices
 - e. Sediment trapping devices used to settle out sediment eroded from disturbed areas, including:
 - i. Sediment traps;
 - ii. Basins (unless infeasible, discharges from basins and impoundments must utilize outlet structures that withdraw water from the surface); or
 - iii. Any performance enhancement practices that will be used, such as:
 1. Baffles;
 2. Skimmers;
 3. Electro coagulation;
 4. Filtration; or
 5. Other adequately protective alternate practices; or
 - iv. Other adequately protective alternate practices.
 - f. Perimeter controls, such as:
 - i. Silt fences;
 - ii. Berms;
 - iii. Swales; or
 - iv. Other adequately protective alternate practices.
5. Other Construction and Development Site Management Practices. Construction activity generates a variety of wastes and wastewater, including concrete truck rinsate, municipal solid waste, trash,

and other pollutants.

- a. Construction materials shall be handled, stored, maintained, and disposed of properly to avoid contamination of runoff to the maximum extent practicable and as noted below.
 - b. The SWPPP shall describe which practices will be implemented to manage Construction and Development Site wastes and prevent or minimize discharges to surface water, including:
 - i. Protecting construction materials, chemicals, and lubricants from exposure to rainfall;
 - ii. Preventing litter, construction debris, and construction chemicals from entering receiving water;
 - iii. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge. Soaps or solvents used in vehicle washing are prohibited;
 - iv. Limiting exposure of freshly placed concrete to exposure to rainfall that results in runoff;
 - v. Segregating stormwaters and other wastewaters from fuels, lubricants, sanitary wastes, and other chemicals such as pesticides, herbicides, and fertilizers to prevent runoff being contaminated. Discharges of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance are prohibited;
 - vi. Neat and orderly storage of chemicals, pesticides, herbicides, fertilizers and fuels that are being stored on the site;
 - vii. Prompt collection and management of trash and sanitary waste which includes maintaining waste container lids closed when not in use and at the end of the business day for those containers that are actively used throughout the day, or, for waste containers that do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);
 - viii. Prompt cleanup of spills of liquids and solid materials that could pose a pollutant risk and implement a chemical spill and leak prevention and response procedure;
 - ix. Regular removal of accumulations of sediment to minimize the potential for discharge; and
 - x. Wastewater from washout of concrete is prohibited, unless managed by an appropriate control (i.e. develop safe concrete disposal area for removal off-site, etc.);
 - xi. Wastewater from washout and cleanout of stucco, paint, form release oils, and curing compounds are prohibited;
 - xii. Other adequately protective alternate practices.
6. A description of all intended alternate protective practices substituting for those practices required by the permit and a demonstration that the alternate practices are adequately protective, including how the substitute practices implement acceptable mitigation measures.
 7. A description of the intended sequence of major stormwater controls and an implementation schedule in relation to the construction process.
 8. A description of interim and permanent stabilization practices (to comply with the requirements of Section 2.4 of this permit), including a schedule of their implementation.
 9. The proposed location(s) of off-site equipment storage, material storage, waste storage and borrow/fill areas.

10. A proposed construction schedule as a means for the operator(s) and KDOW to determine applicability and implementation status of SWPPP requirements.
11. An explanation of practices employed to reduce pollutants from construction-related materials that are stored on site, including:
 - a. A description of said construction materials (with updates as appropriate);
 - b. A description of pollutant sources from areas untouched by construction; and
 - c. A description of stormwater controls that will be implemented in those areas.

2.2.5. Maintenance of Stormwater Controls

Erosion prevention measures, sediment controls measures, and other site management practices are required to be maintained in an effective, operating condition. The permittee shall develop a schedule of maintenance activities to ensure the proper function of these devices. The EPA *recommends* that sediment control devices be maintained at no more than 1/3 capacity to allow for sediment capture.

If site inspections identify sediment controls measures, erosion control measures, and other site management practices that are not operating effectively or otherwise require maintenance, maintenance shall be performed, before the next storm event. If maintenance before the next storm event is impracticable, the required maintenance shall be completed as soon as possible.

2.2.6. Non-Stormwater Discharge Management

The SWPPP shall identify appropriate pollution prevention measures for each of the following eligible non-stormwater wastestreams. These non-stormwater components of the discharge are authorized under this permit only when combined with stormwater discharges associated with construction activity. Eligible non-stormwater wastestreams include:

1. Discharges from fire-fighting activities;
2. Fire hydrant flushing;
3. Waters used for vehicle washing where detergents are not used;
4. Water used for dust control;
5. Potable water including uncontaminated water-line flushing;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks or toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Landscape irrigation;
9. Clean, non-turbid water-well discharges of groundwater; and
10. Construction dewatering (including discharges from dewatering of trenches and excavations) provided it is managed by appropriate controls and the requirements of this permit are met.

2.2.7. Inspections – Permittee Conducted

1. Permittees shall provide for regular inspections of the site. For purposes of this part, DOW defines “regularly” to mean either
 - a. At least once every seven (7) calendar days, or
 - b. At least once every fourteen (14) calendar days, and within 24 hours after any storm event of 0.5 inch or greater. (DOW recommends that the permit holder perform a “walk through” inspection of the construction site before anticipated storm events.)
2. For areas of the site that have undergone temporary or final stabilization inspections shall be conducted at least once a month until the coverage is terminated.

3. Inspections shall be performed by personnel knowledgeable and skilled in assessing conditions at the construction site that could impact stormwater quality and assessing the effectiveness of erosion prevention measures, sediment controls measures, and other site management practices chosen to control the quality of the stormwater discharges. Inspectors shall have training in stormwater construction management such as KEPSC, CEPSC, CPSWQ, TNEPSC, CESSWI, or other similar training.
4. Inspectors shall conduct visual inspections to determine:
 - a. Whether erosion prevention measures, sediment controls measures, and other site management practices are:
 - i. properly installed;
 - ii. properly maintained;
 - iii. effective in minimizing discharges to the receiving water; and
 - b. Whether excessive pollutants are entering the drainage system.
5. Visual inspections shall comprise, at a minimum:
 - a. Erosion prevention measures;
 - b. Sediment controls measures;
 - c. Other site management practices and points of site egress;
 - d. Disturbed areas;
 - e. Areas used for storage of materials exposed to precipitation;
 - f. Discharge points shall be inspected to ascertain whether erosion prevention measures, sediment controls measures, other site management practices and points of site egress are effective in preventing impacts to waters of the Commonwealth. This can be done by inspecting the receiving water bodies for evidence of new erosion and/or the introduction of newly deposited sediment or other pollutants; and
 - g. If discharge points are inaccessible, then nearby downstream locations shall be inspected.
 - h. For linear construction activities (e.g., utility line installation, pipeline construction), representative inspections are acceptable. This permit allows for inspection of the project 0.25 miles above and below each point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the construction site.
6. Inspection reports shall be prepared for all inspections and shall be retained with the SWPPP. Inspection reports should include:
 - a. The date and time of inspection;
 - b. The name and title of the inspector;
 - c. A synopsis of weather information for the period since the last inspection (or since commencement of construction activity of the initial inspection performed) including a best estimate of the beginning of each storm event, the duration of each storm event, and the approximate amount of rainfall for each storm event (in inches);
 - d. Weather conditions and a description of any discharges occurring at the time of the inspection;
 - e. Location(s) of discharges of sediment or other pollutants from the site;
 - f. Location(s) of sediment controls measures, erosion control measures, or other site management practices that require maintenance;

- g. Location(s) of any erosion prevention measures, sediment controls measures, or other site management practices that failed to operate as designed or proved inadequate for a particular location;
- h. Location(s) where additional erosion prevention measures, sediment controls measures, or other site management practices are needed that did not exist at the time of the inspection;
- i. Identify any actions taken in response to inspection findings; and
- j. Identify any incidents of non-compliance with the SWPPP.
- k. If no incidents of non-compliance with the SWPPP were identified, the report shall contain a certification that the site is in compliance with the SWPPP.
- l. The inspection report shall be signed in accordance with the signatory requirements in 401 KAR 5:060, Section 4.

2.2.8. Maintaining an Updated Plan

1. Stormwater Pollution Prevention Plans (SWPPPs) shall be revised whenever erosion prevention measures, sediment controls measures, or other site management practices are significantly modified in response to a change in design, construction method, operation, maintenance procedure, etc., that may cause a significant effect on the discharge of pollutants to receiving waters or municipal separate storm sewer systems.
2. For KYTC projects, the BMP Plan shall be revised whenever erosion prevention measures, sediment controls measures, or other site management practices are modified in response to a change in design, construction method, operation, maintenance procedure, etc., that may cause a significant effect on the discharge of pollutants to receiving waters or municipal separate storm sewer systems. The location of BMPs shall be documented in the daily work report for the highway construction project.
3. The SWPPP shall be amended if inspections or investigations by site staff or by local, state, or federal officials determine that the existing sediment controls measures, erosion control measures, or other site management practices are ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the construction site.
4. If an inspection reveals design inadequacies, the site description and sediment controls measures, erosion control measures, or other site management practices identified in the SWPPP shall be revised.
5. All necessary modifications to the SWPPP shall be made within seven (7) calendar days following the inspection unless granted an extension of time by DOW.
6. If existing sediment controls measures, erosion control measures, or other site management practices need to be modified or if additional sediment controls measures, erosion control measures, or other site management practices are necessary, implementation shall be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation should be documented in the SWPPP and the changes shall be implemented as soon as practicable.

2.2.9. Signature, Plan Review, and Making Plans Available

1. The SWPPP shall be signed and certified by a person described in 401 KAR 5:060, Section 4 [40 CFR 122.22] or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in 401 KAR 5:060, Section 4

[40 CFR 122.22];

- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - c. The signed and dated written authorization is included in the SWPPP. A copy must be submitted to DOW, if requested.
 2. For KYTC projects, the BMP Plan shall be signed and certified by a person described in 401 KAR 5:060, Section 4 [40 CFR 122.22] or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in 401 KAR 5:060, Section 4 [40 CFR 122.22];
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - c. The signed and dated written authorization is included in the SWPPP. A copy must be submitted to DOW, if requested.
 3. A current copy of the SWPPP shall be readily available on the construction site from the date of project initiation to the date of Notice of Termination.
 4. The person with day-to-day operational control over the plan's implementation shall keep a copy of the SWPPP readily available whenever on site (a central location accessible by all on-site operators is sufficient for sites that are part of a common plan of development).
 5. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location shall be posted near the main entrance at the construction site.
 6. The permittee shall make the SWPPP available to DOW or its authorized representative for review and copying during on-site inspection.
 7. The permittee shall make the SWPPP available, upon request, to the Environmental Protection Agency and other federal agencies or their contractor, and local governmental agencies and officials approving sediment and erosion plans, grading plans or stormwater management plans; including the operator of a MS4 receiving discharges from the site.

2.3. Minimize Size and Duration of Disturbance

The permittee shall at all times minimize disturbance and the period of time that the disturbed area is exposed without stabilization practices. In critical areas erosion prevention measures such as erosion control mats/blankets, mulch, or straw blown in and stabilized with tackifiers or by treading, etc. shall be implemented on disturbed areas within 24 hours or as soon as practical after completion of disturbance/grading or following cessation of activities.

2.4. Stabilization Requirements

Final stabilization practices on those portions of the project where construction activities have permanently ceased shall be initiated within fourteen (14) days of the date of activity cessation. Final stabilization shall be initiated on any site where construction activities have been suspended or have otherwise stopped for more than 180 days. In such cases final stabilization practices shall be implemented as soon as practical but not later than 14 days after the 180th day of suspended or stopped activities.

Temporary stabilization practices on those portions of the project where construction activities have temporarily ceased shall be initiated within fourteen (14) days of the date of activity cessation.

2.5. Buffer Zones

For discharges to receiving waters categorized as High Quality Waters (except OSRWs) or Impaired Waters (for non-construction related impairment) permittees are required maintain at a minimum a 25-foot buffer zone between any disturbance and all edges of the receiving water as means of providing adequate protection to receiving waters.

For discharges to receiving waters designated as Coldwater Aquatic Habitat or Outstanding State Resource Water, categorized as an Outstanding National Resource Water or Exceptional Water, or has been listed in the most recently approved Integrated Water Quality 305(b) Report to Congress as an Impaired Water (sediment impaired) for which an approved TMDL has not been developed for pollutants of concern that may be discharged from the facility, permittees are required to maintain at a minimum a 50-foot buffer zone between any disturbance and all edges of the receiving water as means of providing adequate protection to receiving waters.

If the buffer zone between any disturbance and the edge of the receiving water on all edges of the water body cannot be maintained, adequately protective alternate practices may be employed. The SWPPP shall explain any alternate practices and how these practices are adequately protective. Such cases include but are not limited to stream crossings and dredge and fill areas. In these cases the permittee shall minimize disturbances in the buffer zones by using hand held or other low-impact equipment.

Unless infeasible, natural buffers should be provided and maintained around receiving waters, stormwater should be directed to vegetated areas, and infiltration of stormwater should be maximized to reduce pollutant discharges.

SECTION 3
NOTICE OF INTENT – STORMWATER
CONSTRUCTION ACTIVITIES (NOI-SWCA)
REQUIREMENTS

3. Notice of Intent (NOI-SWCA) Requirements

An NOI-SWCA shall be submitted by all operators seeking authorization under this permit for stormwater discharges from any construction site. If the project is part of a larger common plan of development, each operator is required to obtain coverage for each site, individually or collectively, unless a single operator is developing the entire project. Those persons or activities requiring an individual stormwater permit **shall not** use the NOI-SWCA. Those persons seeking an individual permit must use the KPDES program Form 1 and Form F located at:

<https://eec.ky.gov/Environmental-Protection/Water/PermitCert/KPDES/Pages/default.aspx>

3.1. Contents

Form NOI-SWCA requires the following information:

1. Facility Operator Information
 - a. Names of All Operators under this NOI
 - b. Contact information for all operators, including:
 - i. Mailing Address
 - ii. Telephone Number
 - iii. Status of Operators (federal, state, public, or private)
 - iv. Contact Name
 - c. Email address
 - d. Additional Operator Information for Co-Permittee, if applicable
2. Facility/Site Location Information
 - a. Name of Project
 - b. Physical Location/Address
 - c. Site Latitude (decimal degrees)
 - d. Site Longitude (decimal degrees)
 - e. County
 - f. Nearest Community, if applicable
3. Site Activity Information
 - a. Pre-development land use
 - b. Type of Construction site
 - c. If project will demolish 10,000 square feet or more of space built or renovated prior to January 1, 1980.
 - d. For single projects provide following information:
 - i. Total number of acres in project
 - ii. Total number of acres to be disturbed
 - iii. Anticipated start date
 - iv. Anticipated completion date
4. If the permitted site discharges to a water body the following information is required:
 - a. Name of Receiving Water(s)
 - b. Anticipated number of discharge points
 - c. Location (Latitude and Longitude in decimal degrees) of anticipated discharge points
5. If the permitted site discharges to an MS4 the following information is required:
 - a. Name of MS4

- b. Number of discharge points to the MS4
 - c. Latitude and Longitude location (decimal degrees) of each discharge point
 - d. Date of application or notification to the MS4 for construction site permit coverage
6. Construction activities in or along a water body
- Will the project require construction activities in a water body or the riparian zone?
- a. If yes, describe the scope of the activity including how many linear feet of water body and acres of riparian zone will be impacted?
 - b. Is a Clean Water Act §404 permit (individual or nationwide) required?
 - c. Is a Clean Water Act §401 Water Quality Certification? (Individual or general) required?

7. Certification

The NOI-SWCA contains a certification that all information provided on the NOI and the attachments is correct and accurate. Following the certification is a signature block for the authorized agent, including the agents name and title, telephone number and date. Note the signature requirements of the NOI-SWCA shall be consistent with the requirements of 401 KAR 5:060, Section 4 [40 CFR 122.22].

8. NOI Preparer Information

- a. Name of the person who completed the NOI
- b. Contact information of the person who completed the NOI, including:
 - i. Mailing Address
 - ii. Telephone Number
 - iii. Email address

9. Attachments – Site Map

A legible map of appropriate scale sufficient to clearly illustrate the following:

- a. Property boundary of the project including entrances;
- b. Areas to be disturbed;
- c. Location of anticipated discharge points; and
- d. Location of receiving waters.
- e. Label nearby roads

For KYTC projects, the roadway plan shall substitute for the site map.

3.2. NOI Submission Requirements and Deadlines

Applicants shall use the electronic web based NOI submission system that allows the applicant to complete and submit the NOI-SWCA form online. Applicants can access this system at the following web address: <https://dep.gateway.ky.gov/eForms/default.aspx?FormID=48>. The applicant shall complete and submit the NOI-SWCA a minimum of (7) days before the proposed date for commencement of construction activities and shall receive authority to discharge as detailed in Section 3.3.

For ongoing projects, DOW will extend coverage for a period of one (1) year from the effective date of this renewal. Projects that will not achieve final stabilization by this date are required to resubmit an eNOI-SWCA to extend coverage under this general permit. Ongoing Projects include those that obtained coverage under the KYR10 prior to November 30, 2019.

DOW will not process any NOI that is incomplete, inaccurate, or in an incorrect format.

3.3. Authorization to Discharge

Authorization to discharge under the terms of this general permit shall be effective upon the receipt of written notification by the DOW. DOW will provide this written notification electronically to the email provided on the NOI-SWCA.

SECTION 4

STANDARD CONDITIONS

4. Standard Conditions

4.1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Any person who violates applicable statutes or who fails to perform any duty imposed, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty as provided at KRS 224.99.010.

4.2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must comply with Section 1.3 of this permit.

4.3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4.4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4.5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4.6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

4.7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

4.8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

4.9. Inspection and Entry

The permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the Director), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by KRS 224, any substances or parameters at any location.

4.10. Signatory Requirement

1. All applications, reports, or information submitted to the Director shall be signed and certified pursuant to 401 KAR 5:060, Section 4.
2. KRS 224.99-010 provides that any person who knowingly provides false information in any document filed or required to be maintained under KRS Chapter 224 shall be guilty of a Class D felony and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment, or by fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

4.11. Reporting Requirements

4.11.1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in KRS 224.16-050;
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under KRS 224.16-050; or
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

4.11.2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

4.11.3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS 224; see 401 KAR 5:050, Section 6; in some cases, modification or revocation and reissuance is mandatory.

4.11.4. Twenty-Four Hour Reporting

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written

submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. (The following shall be included as information which must be reported within twenty-four (24) hours under this paragraph.
 - a. Any unanticipated bypass which exceeds any effluent limitation in the permit.
 - b. Any upset which exceeds any effluent limitation in the permit.
 - c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.
3. The Director may waive the written report on a case-by-case basis for reports under paragraph ii of this section if the oral report has been received within twenty-four (24) hours.

4.11.5. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

SECTION 5

OTHER CONDITIONS

5. OTHER CONDITIONS

5.1. Authorization to Discharge

Authorization to discharge under the terms of this general permit shall be effective upon the issuance of written notification by the DOW. DOW will provide this written notification electronically to the email provided on the NOI-SWCA.

5.2. Termination of Coverage

All existing coverages shall be terminated by DOW effective one (1) year after the effective date of this KYR10. The permittee shall submit a NOI-SWCA application requesting coverage under this renewal of the general permit if coverage is needed beyond this time frame.

When one or more of the following conditions have been met operators shall submit a completed Notice of Termination (NOT) to DOW:

1. Final stabilization has been achieved on all portions of the site for which the permittee is responsible;
2. Another permittee has assumed control over all areas of the site that have not been finally stabilized;
3. Coverage under an individual KPDES permit has been obtained.

For new projects that do not submit a Notice of Termination (NOT) as described above, termination of coverage will occur automatically two (2) years after authorization to discharge is granted unless the operator submits a new NOI-SWCA

5.3. In-Stream Treatment or Disposal Facilities

This permit does not authorize the construction or use of in-stream treatment or disposal facilities (sediment ponds, hollow fills, valley fills, etc.). Such authorization is within the jurisdiction of the U.S. Army Corps of Engineers and is implemented through the Clean Water Act §404 permitting program. A §404 permit action also requires the issuance of a Clean Water Act §401 Water Quality Certification by the Kentucky Division of Water. This certification shall be obtained on a site-specific basis as the U.S. Army Corps of Engineers §404 Nationwide permit does not provide automatic Clean Water Act §401 Water Quality Certification coverage for areas that impact more than 200 linear feet of stream or one (1) acre of wetlands. The conditions of the Clean Water Act §404 permit and the §401 Water Quality Certification shall be incorporated into the SWPPP.

5.4. Schedule of Compliance

For new projects the facility will comply with the requirements of this permit by the date of authorization to discharge under this permit.

For ongoing projects existing SWPPPs and BMPs shall be deemed in compliance with the requirements of this permit. However, should DOW take enforcement action regarding the failure of a SWPPP and/or BMPs to protect water quality, the permit holder may be required to make changes to the SWPPP and/or BMPs.

5.5. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved in accordance with 401 KAR 5:050 through 5:080, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

2. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

5.6. Retention of Records

The permit requires that all required records and reports be retained, including SWPPPs and information used to complete the NOI, for at least three (3) years from the termination of coverage or expiration of the permit.

5.7. Antidegradation

For those discharges subject to the provisions of 401 KAR 10:030, Section 1(3)(b)5, the permittee shall install, operate, and maintain buffer zones and stormwater controls consistent with those required by Section 2.5.

5.8. Continuation of Expiring Permit

In the event the permit expires prior to reissuance by DOW, the conditions and requirements of this version of KYR10 shall continue in effect until DOW reissues the permit. However, new or expanded coverages cannot be authorized until the permit is reissued.

5.9. Other Permits

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.